THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6217 OF 2006

DATED: 31-03-2006

BETWEEN

Bhamidipati Annapoorna Bhavani,

W/o. late Satyanarayana Murthy,

R/o. D.No.7-2-13, Nageswararao

Street, Ramarao pet, Kakinada,

East Godavari District and another.

...PETITIONERS

AND

Kakinada Municipal Corporation,

Rep. by its Commissioner.

...RESPONDENT

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the respondent in issuing the impugned notice dated 28.01.2006 without disposing the revision petitions filed by the petitioners on 25.03.2002 and 11.04.2002 against the notice dated 20.09.2002 as illegal and arbitrary.

Learned counsel for the petitioners submits that originally the husband of the first petitioner was absolute owner and possessor of the building bearing Door No.7-2-13, Assessment No.1582, Nageswararao Street, Ramaraopet, Kakinada and after his death the first petitioner – wife and second petitioner – son, being his legal representatives are residing the

said house. He further submits that in the year 2002 the respondent arbitrarily enhanced the half yearly tax for the said property from Rs.176/- per annum to Rs.2,777/- for half yearly and thereafter by notice dated 20.09.2002 bearing No.28482 once again enhanced the existing tax from Rs.2,777/- to Rs.4,518/-.

As against the said notice, petitioners filed a revision, which was acknowledged by the respondent on 11.04.2002 and a notice was also issued for hearing as the said revision was posted to 01.05.2002, but no orders have been passed on the said revision. While so, a demand notice dated 20.05.2002 bearing No.010311283 was issued to the petitioners demanding payment of half yearly tax for the half year ending with 30.09.2002 for Rs.4,035/- reducing the tax from Rs.4,518/-. The learned counsel further submits that the impugned notice dated 28.01.2006 issued under Rule 30(1) of Schedule of Andhra Pradesh Municipalities Act, directing the petitioners to pay the tax arrears for the years 2001 to 2006 amounting to Rs.32,018/- bearing assessment No.30354 is illegal, arbitrary and unsustainable.

I am of the opinion that the petitioners are not entitled to invoke the extraordinary jurisdiction of this Court, as an alternative remedy of appeal is available to them under Section 282 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act') which is applicable to the Kakinada Municipal Corporation.

Under Section 282 of the Act against the fixation of tax and ratable value or charging of tax under the Act an appeal lies to the Judge. The Judge as defined under Section 2(27) of the Act, means in the cities of Hyderabad and Secunderabad, a Chief Judge, of the Court of Small Causes and shall include a Special Judge to whom such Judge may transfer in accordance with the provisions of the Act an application or an appeal for disposal.

Accordingly, the writ petition is dismissed with liberty to the petitioners to file an appropriate appeal in accordance with law.

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V. ESWARAIAH, J

March 31, 2006

DSK